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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/723,244	11/26/2003	Tamar Giloh	02-1183-A	6037
20306 7590 01/24/2007 MCDONNELL BOEHNEN HULBERT & BERGHOFF LLP 300 S. WACKER DRIVE 32ND FLOOR CHICAGO, IL 60606			EXAMINER STEPHENS, JACQUELINE F	
			ART UNIT	PAPER NUMBER
			3761	
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		01/24/2007	PAPER	

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

# Office Action Summary

Application No.

10/723,244

Applicant(s)

GILOH, TAMAR

Examiner

Jacqueline F. Stephens

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 27 October 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 29-36, 38-40, 42, 44-51, 54 and 57-73 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 29-36, 38-40, 42, 44-51, 54 and 57-73 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Amendment***

1. The amendment filed 10/27/06 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: "loose fibres".

Applicant is required to cancel the new matter in the reply to this Office Action.

### ***Response to Arguments***

2. Applicant's arguments with respect to claims 29-57 have been considered but are moot in view of the new ground(s) of rejection.

### ***Specification***

3. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: Claims 35, 38, and 63 recite the limitation "the surface of the integrally formed garment body has a first portion; claims 36 and 64 recite "the first portion of the surface". The specification does not provide support limiting the inner surface of the liquid impermeable material of the garment body to having perforations. The specification provides support for the garment body (as a whole) having

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perforations, which may be interpreted to not include the liquid impermeable inner surface. For instance, the absorbent core of an article may be perforated, but the liquid impermeable inner surface is not.

***Claim Rejections - 35 USC § 112***

4. Claims 35, 36, 38-40, 63, and 64 are rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for the garment body having first and second portions and the first portion having perforations, does not reasonably provide enablement for the inner surface of the liquid impermeable material of the garment body having first and second portions with the first portion having perforations. The specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the invention commensurate in scope with these claims.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

6. Claims 29-34, 51, 54, 58, 59, 61, 62, 66, and 73 are rejected under 35 U.S.C. 102(b) as being anticipated by Rodriguez USPN 5411493.

As to claims 29, 33, 34, 58, 59, 66, and 73, Rodriguez discloses an integrally formed garment body 10 of stretchable liquid impermeable material (col. 6, lines 61-68 and col. 7, lines 11-14), the liquid impermeable material having different areas of thickness, in areas where the material overlaps to form pockets and seams (Figures 4-6); and loose fibers directly affixed to at least part of the inner surface of the integrally formed garment body (col. 6, lines 31-49). The examiner considers the fibers loose as broadly as claimed, as they are unattached to the layer. The garment comprises an absorptive device 50 associated with the inner surface of the integrally formed garment body.

As to claims 30, 32, and 61, Rodriguez discloses a fastening device 30 for adjusting the garment on a wearer.

As to claims 31, 51, 54, and 62, Rodriguez discloses a connector 44 associated with the integrally formed garment body, and a tubing 25 connected to the integrally formed garment body by the connector. The tubing is associated with the absorbent material (col. 7, lines 48-54).

7. Claims 29, 33, 47, 48, 59, 60, 66, 67, and 70 are rejected under 35 U.S.C. 102(e) as being anticipated by Shlenker et al. USPN 5965276.

As to claims 29, 33, 47, 59, 60, 66, and 67, Shlenker discloses an integrally formed garment body, such as a glove comprising an elastomeric liquid impermeable material (col. 1, lines 35-46), the liquid impermeable material having different areas of thickness where Shlenker discloses multi-layered membrane having a permeable layer with pores and an impermeable layer (col. 7, lines 25-53). Shlenker discloses loose fibers directly affixed to at least part of the inner surface of the integrally formed garment body (col. 8, line 9). Shlenker further discloses an absorptive device (hydrogels) associated with the inner surface of the integrally formed garment body (col. 7, lines 25-32).

As to claims 48 and 70, Shlenker discloses a color incorporated into the garment body (col. 2, lines 41-46; col. 6, lines 33-39).

8. Claims 29, 30, 32-36 38-40, 42, 44-47, 50, 57, 59, 61, 63-66, 68-69, and 72 are rejected under 35 U.S.C. 102(e) as being anticipated by Lasko et al. USPN 6277104.

As to claims 29, 32, 33, and 34, Lasko discloses a cover 71, absorbent core 74, and barrier structure 76 which form an integral garment body - integral in the sense that the components are part of a whole garment body - of stretchable liquid impermeable material 70,76 (col. 3, lines 36-40; col. 6, lines 54-55 where Lasko discloses the perforated film is stretched). The liquid impermeable material has pores, which creates different thicknesses on desired areas of the body (col. 5, lines 35-55). The liquid impermeable material has an inner surface 79 having fibers 78 affixed to at least part of the inner surface, an adjustment device associated with the garment body.

As to claims 30 and 61, Lasko discloses tabs as an adjustment device (col. 10, line 63 through col. 11, lines 6 and col. 11, lines 27-42).

As to claims 35, 36, 38-40, 63, and 64, Lasko discloses the garment comprises a perforations (col. 6, lines 43-48). As to the first and second portions, any part of the impermeable material constitutes a portion. A first portion can be considered the edges and the second portion can be considered the central portion. The absorbent material is most prominent in the central or second portion (Figures 7 and 9; col. 9, lines 9-26).

As to claims 42 and 65, Lasko discloses the fibers 78 attached to the inner surface and outer surface of the barrier structure 76 (col. 7, lines 57-58).

As to claims 44-46 and 68, Lasko discloses his invention is used in the claimed absorbent products (Abstract, col. 1, lines 5-10).

As to claims 47 and 69, Lasko discloses thermoplastic elastomers (col. 6, lines 58-67).

As to claim 50, Lasko discloses an embossed pattern (col. 6, lines 54-56).

As to claims 57 and 72, Lasko discloses tabs covered with release paper (col. 11, lines 27-28). The area of attachment between the release paper and tab constitutes a tear region in that the release paper is torn from the tabs for use.

As to claims 59 and 66, Lasko discloses elastics or stretchable materials for creating a body conforming garment (col. 11, lines 34-37).

### ***Claim Rejections - 35 USC § 103***

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 48 and 70 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lasko USPN 6277104 in view Wiegner USPN 4662876. Lasko discloses the



present invention substantially as claimed. However, Lasko does not disclose a pigment. Wiegner discloses a liquid impermeable layer comprising colored coatings for the benefit of providing embossings or trademarks as well as to clearly delineate the impermeable regions from the permeable regions is so desired. It would have been obvious to one having ordinary skill in the art to provide the impermeable cover of Lasko with color for the benefits taught in Wiegner.

11. Claims 49 and 71 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lasko USPN 6277104 in view Tanzer et al. USPN 5342333. Lasko discloses the present invention substantially as claimed. However, Lasko does not disclose a fragrance. Tanzer discloses a liquid impermeable layer comprising a deodorant and can also comprise a fragrance for the benefit of treating malodors (col. 6, lines 29-57). It would have been obvious to one having ordinary skill in the art to provide the impermeable cover of Lasko with a deodorant and fragrance as taught in Tanzer. Doing so would provide a method of treating malodors.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jacqueline F. Stephens whose telephone number is (571) 272-4937. The examiner can normally be reached on Monday-Friday 9:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tanya Zalukaeva can be reached on (571) 272-1115. The fax phone

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number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Jacqueline F Stephens  
Primary Examiner  
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January 21, 2007